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NOTE

From:	General Secretariat of the Council
On:	28 May 2026
To:	Delegations
Subject:	Proposal for a Directive on combating sexual abuse and sexual exploitation of children and child sexual abuse material (recast) – Presidency's note

Ahead of the next JHA Counsellors meeting on 9th June, delegations will find below the Presidency note to be used as a basis for discussion.

The note builds on the previous full compromise package discussed with delegations on 22nd May, as well as informal exchanges with the European Parliament. The Presidency appreciates the input provided by the delegations and is pleased to report that the exchanges with the Parliament have been highly constructive, facilitating progress on several key issues.

The next coming days remain crucial for the negotiations. There are still some sensitive issues that will require further discussions in order to reach an agreement at the trilogue on the 22nd of June. The Presidency acknowledges the efforts of the delegations and continues to count on their support and cooperation in order to achieve this target.

Given on the 17th of June the Presidency intends to submit the entire package to Coreper, in order to obtain a mandate ahead of the trilogue, the meeting on the 9th June will be a last opportunity for discussion at technical level, where delegations will be invited to raise their final red lines on the said package.

Debrief of the latest developments:

After several exchanges with the Parliament, there was a provisional agreement at technical level on Articles 11 (option A of the previous Presidency note ST 9177/26 ADD1), 25 and 28.

Regarding the references to 'EU Centre', following extensive discussions with involvement also of the Council Legal Service and the Presidency team dealing with the CSAR, we have convinced the Parliament to accept deleting all references to EU- Centre in the entire text. This entails that the references to EU Centre are deleted in article 17(5), article 21(9) and (10), article 28(5), and 31(4) and (5).

The package with the Victims' rights related provisions, remains problematic on the side of the EP, given that they insist on their positions on important elements like, third country nationals, compensation, Barnahus and the reference to survivors. The estimation of the Presidency is that at least they will not insist on article 18(3) and on compensation at the endin view of the global compromise package.

For the purpose of the meeting on 9th June, the Presidency intends to discuss only open issues in sections B and Section C.

Section A presents the articles that have been provisionally agreed (either at technical or political trilogue level): articles 1, 2, 9, 1011, 12, 13, 14, 15, 16, 19, 24, 25, 25a, 26, 27, 28, 29, 30, 32, 32a, 33, 34, 36, as well as the new general recital that explains that Member States can go beyond and provide higher standards for the protection of child victims.

Section B includes the penalty levels for the criminal offences referred to in Articles 3-8a and Article 16a which concerns the limitation periods. The issue of consent is included in Article 3(8), and for article 6(2) the Presidency is proposes an alternative wording to find a middle ground with the EP.

Section C includes Article 31 and victims' rights related provisions.

New changes (compared to previous versions) are indicated in bold and underlined, while cross-references and penalty levels are highlighted in yellow.

A. SECTION A – Articles agreed

New recital:

This Directive establishes minimum rules and Member States are therefore free to adopt or maintain more stringent criminal law rules concerning the definition of criminal offences and penalties in the area of child sexual abuse. As regards the provisions of this Directive, on the rights of child victims, Member States can introduce or maintain provisions with higher standards, including those which provide a higher level of protection and support for victims.

Article 1 – Subject matter

Article 1

Subject matter

This Directive establishes minimum rules concerning the definition of criminal offences and penalties in the area of sexual abuse and sexual exploitation of children, child sexual abuse material and solicitation of children for sexual purposes**, including where those offences are committed by means of information and communication technology**. It also introduces provisions to strengthen the prevention of those criminal offences and the protection of the victims thereof.

Recital 7

(7) Serious criminal offences such as the sexual exploitation of children and sexual abuse material require a comprehensive approach covering the prosecution of offenders, the protection of child victims, and prevention of the phenomenon, including its recent and foreseeable evolutions and trends, increasingly involving the use of information and communication technologies. For that purpose, the current legal framework needs to be updated, in order to ensure it remains effective **and to ensure, where appropriate, that offences committed by means of information and communication technology** ~~are covered by the~~ ~~definition~~ **fall within the scope of this Directive** ~~of the criminal offences~~**.** The child's best interests must be a primary consideration when carrying out any measures to combat these offences in accordance with the Charter of Fundamental Rights of the European Union and the United Nations Convention on the Rights of the Child.

Article 2 – Definitions

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

(1) 'child' means any person below the age of 18 years;

(2) 'age of sexual consent' means the age below which, in accordance with national law, it is prohibited to engage in sexual activities with a child;

~~[**(2a) definition of consent**]~~

(3) 'child sexual abuse material' means:

(a) any material that visually depicts a child engaged in real or simulated sexually explicit conduct;

(b) **any** depiction of the sexual organs, **breasts or anal area** of a child for primarily sexual purposes;

(c) any material that visually depicts any person appearing to be a child engaged in real or simulated sexually explicit conduct or any depiction of the sexual organs, **breasts or anal area** of any person appearing to be a child, for primarily sexual purposes; ~~or~~

(d) **any** realistic images, reproductions or representations of a child engaged in sexually explicit conduct or of the sexual organs, **breasts or anal area** of a child, for primarily sexual purposes;

~~(e) any material, regardless of its form, intended to provide advice, guidance or instructions on how to commit child sexual abuse or sexual exploitation or child solicitation;~~

(4) 'child exploitation in prostitution' means the use of a child for sexual activities where money or any other form of remuneration or consideration is given or promised as payment in exchange for the child engaging in sexual activities, regardless of whether that payment, promise or consideration is made to the child or to a third party;

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(5) ‘child sexual abuse performance’ means a live exhibition aimed at an audience **of one or more persons**, including by means of information and communication technology, of:

(a) a child engaged in real or simulated sexually explicit conduct; or

(b) the sexual organs, **breasts or anal area** of a child for primarily sexual purposes;

(6) ‘legal person’ means ~~an~~ **any legal** entity having ~~legal personality~~ **such status** under the applicable **national** law, except for States or public bodies ~~in the exercise of~~ **excercising** State authority and for public international organisations;

(7) ‘information society service’ means a service as defined in Article 1, point (b), of Directive (EU) 2015/1535.

(8) ‘peers’ means persons who are close in age and degree of psychological and physical development or maturity.

(9) ‘artificial intelligence system’ means an AI system as defined in Article 3, point (1), of Regulation (EU) 2024/1689.

(10) ‘instructions on how to commit offences related to child sexual abuse, means any material, regardless of its form, or method of creation, intended to provide advice or instructions on how to commit the offences referred to in Articles [3, 4, 5, ~~5b~~, 6 or 6a] including any instruction for producing child sexual abuse material with the use of artificial intelligence systems.

Recital 10:

(10) Child sexual abuse material frequently includes images recording the sexual abuse of children. It may also include images of children involved in sexually explicit conduct, or of their sexual organs, breasts or anal area, where such images are produced or used for primarily sexual purposes and exploited with or without the child’s knowledge. Furthermore, the concept of child sexual abuse material also covers realistic images of a child, where a child is engaged or depicted as being engaged in sexually explicit conduct for primarily sexual purposes. **This Directive does not govern** ~~It does not however cover~~ **unrealistic depictions, reproductions or representations of a child engaged in sexually explicit conduct, or of the sexual organs, breasts or anal area of a child, such as unrealistic doodles or sketches.**

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The term image includes any visual representation, regardless of the method of creation or manipulation, including by using artificial intelligence, deepfake technologies, or augmented, extended, or virtual reality settings. The term image includes e.g. images in printed publications as well as photographic images including films and videos, videograms and digital representation. It may also include pseudo-photographs, i.e. an image made by computer graphics, or in any other way, that appears to be a photograph, or data that can be converted into a photograph. This recital is not an exhaustive list of what may constitute a visual representation.

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Article 9 – Incitement, aiding and abetting, and attempt

Article 9

Incitement, aiding and abetting, and attempt

1. Member States shall take the necessary measures to ensure that inciting or aiding and abetting to commit any of the offences referred to in Articles [3 to 8] is punishable.

2. Member States shall take the necessary measures to ensure that an attempt to commit any of the offences referred to in Article [3(4), **(4a),** (5), (6), **and** (7) ~~and (8)~~, Article 4(2), (3), (5), (6) and (7), Article 5(4), (5) and (6) ~~and where applicable in accordance with the national law to in [Articles 7 and 8]~~ **is punishable.**

Article 10 – Consensual activities

This article was agreed in the previous trilogue, although para 4 is still pending and might need to be adjusted depending on the outcome of article 6.

Article 10

Consensual sexual activities

1. It shall be within the discretion of Member States to decide whether **[**Articles 3(2)**,** ~~and~~ (4), **and (6)**, ~~and Article 4(6)~~**]** apply to consensual sexual activities between peers, in so far as the acts did not involve any abuse **or exploitation**.

2. It shall be within the discretion of Member States to decide whether **[**Article 4(4)**]** applies to a performance that takes place in the context of a consensual relationship where the child has reached the age of sexual consent or between peers, in so far as the acts did not involve any abuse or exploitation and no money or other form of remuneration or consideration is given as payment in exchange for the performance.

3. It shall be within the discretion of Member States to decide whether **[**Article 5(2), (3), (4) and (6)**]** apply to the production, acquisition or possession of, or access to, material ~~which exclusively involves~~ **involving**:

   (a) children who have reached the age of sexual consent, or

   (b) children ~~above the age of sexual consent~~ and their peers,

   where that material is produced**, acquired,** ~~and~~ possessed **or accessed by the persons involved with their** ~~with the consent~~ **mutual agreement** ~~**of** the children involved~~ and only for ~~the~~ **their** private use ~~of the persons involved~~, in so far as the acts did not involve any abuse **or exploitation**.

   When applying discretion referred to in the first subparagraph, Member States shall ensure that the consensual sharing of one's intimate images or videos cannot be interpreted as consent to any further sharing or dissemination of that same material, [including in a manipulated or altered version.

4. It shall be within the discretion of Member States to decide whether Article 6 applies to proposals, conversations, contacts or exchanges between peers, in so far as the acts did not involve any abuse or exploitation, coercion or threat.

~~5.~~

~~6. Consensual sharing of one's intimate images or videos cannot be interpreted as consent to any further sharing or dissemination of that same image or video.~~

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Recital 24:

(24) This Directive does not govern Member States' policies with regard to consensual sexual activities in which children may be involved and which can be regarded as the normal discovery of sexuality in the course of human development, taking account of the different cultural and legal traditions and of new forms of establishing and maintaining relations among children and adolescents, including through information and communication technologies. ~~Member States which avail themselves of the possibilities referred to~~ **Nothing** in this Directive ~~do so in the exercise of their competences. More particularly~~ **should be understood as requiring, or encouraging directly or indirectly, Member States to criminalise, penalise or otherwise sanction such consensual activities, which remain outside the scope of this Directive. In implementing this Directive,** Member States should ~~be able to exempt from criminalisation~~ **ensure that its provisions are applied in a manner that clearly distinguishes abusive and exploitative conduct from** consensual ~~sexual~~ **and non-exploitative** activities ~~involving~~ **forming part of normal sexual development of** children ~~above the age of sexual consent, as well as~~**. Member States are encouraged to ensure that** consensual sexual activities ~~involving children and their peers. The amendments of this provision are intended to clarify the scope of the derogation. Risks associated with creating and sharing self-generated sexual content~~ between ~~children who have reached the age of sexual consent and adults or between children and their~~ peers ~~must be considered when applying this derogation~~ **are not subject to criminalisation or other punitive measures under national law, in so far as the acts did not involve any abuse or exploitation**.

Article 11 – Aggravating circumstances

The Parliament has accepted the proposal prepared by the Presidency (option A of the previous Presidency note ST 9177/26 ADD1). The reference to article 9 was missing in the previous version and has been included in para 1 and para 2 to align it with the General Approach (and as currently drafted in the 2011 Directive).

Article 11

Aggravating circumstances

1. To the extent that the following circumstances do not already form part of the constituent elements of the offences referred to **in Articles 5a, 5b, 6a, 7, 8 ~~and~~ 8a and 9 Member States shall take the necessary measures to ensure that, in relation to the relevant criminal offences referred to in those Articles, one or more of the following** circumstances can, in accordance with the relevant provisions of national law, be regarded as aggravating circumstances:

(a) the offence was committed against a child in a particularly vulnerable situation, such as a child with a ~~mental or physical~~ disability, in a situation of dependence or in a state of physical or mental incapacity;

(b) the offence was committed by a member of the child's family, a person cohabiting with the child or a person who has abused a recognised position of trust, authority ~~or influence on the child;~~

(c) the offence was committed by several persons acting together;

(d) the offence was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA

(e) the offender has previously been convicted of offences of the same nature;

(f) the offender has deliberately or recklessly endangered the life of the child;

(g) the offence involved serious violence or caused serious harm to the child;

(h) the offence was committed repeatedly;

(ha) the offender posed as a minor or a peer;

(i) the offence was committed with the use or threat of using a weapon; ~~or~~

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(j) the offence was committed by ~~causing~~ intentionally taking advantage of the victim's ~~to take, use or be affected by drugs, alcohol or other~~ intoxicating ~~substances's~~ intoxicated state; **or**

(ja) the offence was motivated by one or more of the grounds protected under Article 21 of the Charter of Fundamental Rights of the European Union.

2. To the extent that the circumstances in sub paragraphs a to ja of par 1 do not already form part of the constituent elements of the offences referred **to in Articles 3, 4, 5**, ~~and~~ **6 and 9** Member States shall take the necessary measures to ensure that:

(a) in relation to the relevant criminal offences referred to in those Articles, the circumstances referred to in **subparagraphs (a) to (g) of paragraph 1** can, in accordance with the relevant provisions of national law, be regarded as aggravating circumstances and

(b) in relation to the relevant criminal offences referred to in those Articles**, one or more of the circumstances referred to in sub par (h) to (ja) of paragraph 1** can, in accordance with the relevant provisions of national law, be regarded as aggravating circumstances

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Following the request form some Member States, the article 11 would be accompanied by recital 25 from the General Approach with one adjustement as indicated below:

> (25) Member States should provide for aggravating circumstances in their national law in accordance with the applicable rules established by their legal systems on aggravating circumstances. ~~They should ensure that those aggravating circumstances are available for judges to consider when sentencing offenders, although there is no obligation on judges to apply those aggravating circumstances.~~ The **notion of** aggravating circumstances should ~~not be provided for in~~ **be understood either as facts allowing the judge to pronounce a higher sentence for the same offence than the one normally incurred without these facts, or as the possibility of retaining several offences cumulatively in order to increase the level of sanction. Therefore,** Member States~~' law when irrelevant taking into account the nature of the~~ **should not be obliged to provide for** specific ~~offence. The relevance of the various~~ aggravating circumstances ~~provided for in this Directive should be evaluated at~~ **where** national ~~level for each of the~~ **law provides for separate criminal** offences ~~referred to in this Directive~~ **and this may lead to more severe sanctions**. **The aggravating circumstances should not be provided for in Member States' law when irrelevant taking into account the nature of the specific offence. The relevance of the various aggravating circumstances provided for in this Directive should be evaluated at national level for each of the offences referred to in this Directive.**

Article 12 – Disqualification arising from convictions

Article 12

Disqualification arising from convictions

1. In order to avoid the risk of repetition of offences, Member States shall take the necessary measures to ensure that a natural person who has been convicted of any of the offences referred to in Articles 3 to 9 may be temporarily or permanently prevented from exercising at least professional **and organised voluntary** activities involving direct and regular contacts with children.

2. Member States shall take the necessary measures to ensure that employers, when recruiting a person for professional ~~activities~~ or ~~structured volunteering activities within clubs~~ **organised voluntary activities** involving direct and regular contacts with children, and organisations acting in the public interest against child sexual abuse, when recruiting staff, **are required to** ~~properly~~ request information in accordance with national law by way of any appropriate means, such as access upon request or via the person concerned, of the existence of criminal convictions for any of the offences referred to in Articles 3 to 9, entered in the criminal record or of the existence of any disqualification from exercising activities involving direct and regular contacts with children arising from those criminal convictions.

3. For the application of paragraphs 1 and 2 of this Article, when requested by competent authorities, Member States shall take the necessary measures to ensure, the transmission of information concerning the existence of criminal convictions for any of the offences referred to in Articles 3 to 9, or of any disqualification from exercising activities involving direct and regular contacts with children arising from those criminal convictions, and that the transmitted information is as complete as possible, comprising at least information on criminal convictions or disqualifications arising from criminal convictions kept by any Member State. For that purpose, such information shall be transmitted through ECRIS or the mechanism for the exchange of criminal record information established with third countries**, when such a mechanism exists**.

PUBLIC

Recital 50

(50) Where the danger posed by the offenders and the possible risks of repetition of the offences make it appropriate, convicted offenders should be temporarily or permanently prevented from exercising at least professional activities **and organised voluntary activities** involving direct and regular contacts with children or within organisations that work for children or organisations acting in the public interest on the fight against child sexual abuse. Employers when recruiting for a post involving direct and regular contact with children should request information on existing convictions for sexual offences against children entered in the criminal record, or of existing disqualifications**.** For the purposes of this Directive, the term 'employers' should also cover persons running an organisation that is active in volunteer work related to the supervision or care of children involving direct and regular contact with children, including community settings such as schools, hospitals, social care services, sports clubs or religious communities. **For the purpose of this Directive, "direct and regular contact" refers to activities where an individual interacts with children in a structured, ongoing capacity, and does not include occasional activities, such as sporadic, short-term, or one-off events with limited or unpredictable contact.** The way such information is delivered, such as for example access via the person concerned, and the precise content of the information, the meaning of organised voluntary activities and direct and regular contact with children should be laid down in accordance with national law. However, the information transmitted from one competent authority to another should at least contain all relevant records stored by any Member State in their national criminal records registers, and all relevant records that can be easily obtained from third countries, such as information that can be obtained from the United Kingdom through the channel established in accordance with Title IX of Part Three of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

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Article 13 - Liability of legal persons

Article 13

Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for criminal offences referred to in [Articles 3 to 9] where such offences have been committed for the benefit of those legal persons by any person who has a leading position within the legal person concerned, acting either individually or as part of an organ of the legal person based on:

   (a) a power of representation of the legal person;

   (b) an authority to take decisions on behalf of the legal person; or

   (c) an authority to exercise control within the legal person.

2. Member States shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission **of the** criminal offences referred to in [Articles 3 to 9] for the benefit of the legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not preclude criminal proceedings against natural persons who commit, incite or are accessories to the criminal offences referred to in [Articles 3 to 9].

Article 14 – Penalties for legal persons

Article 14

~~*Sanctions on*~~ ***Penalties for*** *legal persons*

1. Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 13**(1) or (2)** is punishable by effective, proportionate and dissuasive ~~sanctions, which shall include~~ criminal or non-criminal ~~fines and may include other sanctions, such as:~~ **penalties or measures.**

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1a. Member States shall take the necessary measures to ensure that penalties or measures for legal persons held liable pursuant to Article 13(1) or (2) for the criminal offences referred to in Articles 3 to 9 shall include criminal or non-criminal fines and may include other criminal or non-criminal penalties or measures, such as:

(a) exclusion from entitlement to public benefits or aid;

(b) exclusion from access to public funding, including tender procedures, grants ~~and~~**,** concessions **and licences**;

(c) temporary or permanent disqualification from the practice of ~~commercial~~ **business** activities;

(d) placing under judicial supervision;

(e) judicial winding-up; or

(f) ~~temporary or permanent~~ closure of establishments ~~which have been~~ used for committing the offence.

(fa) where there is a public interest, the publication of all or part of the judicial decision relating to the criminal offence committed and the penalties or measures imposed, without prejudice to rules on privacy and the protection of personal data.

2. Member States shall take the necessary measures to ensure that, **at least** for legal persons held liable pursuant to Article 13**(1)**, **criminal** offences punishable **under this directive** by a maximum term of imprisonment of at least ~~2 years~~**1 year** for natural persons are punishable by **criminal or non-criminal** fines ~~whose maximum level should be not less than 1 percent~~**, the amount of which shall be proportionate to the gravity** of the ~~total worldwide turnover~~ **conduct and to the individual, financial and other circumstances** of the legal person ~~in the business year preceding the fining decision.~~ **concerned.**

Member States shall take the necessary measures to ensure that the maximum level of such fines is not less than:

(i) 1 percent of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine, or

(ii) an amount corresponding to EUR 8 000 000.

3. Member States shall take the necessary measures to ensure that, **at least** for legal persons held liable pursuant to Article 13**(1)**, **criminal** offences punishable **under this directive** by a maximum term of imprisonment of at least 3 years for natural persons are punishable by **criminal or non-criminal** fines, ~~whose maximum level should be not less than 5 percent~~ **the amount of which shall be proportionate to the gravity** of the ~~total worldwide turnover~~ **conduct and to the individual, financial and other circumstances** of the legal person ~~in the business year preceding the fining decision~~ **concerned. Member States shall take the necessary measures to ensure that the maximum level of such fines is not less than:**

(i) 3 percent of the total worldwide turnover of the legal person, either in the business year preceding that in which the offence was committed, or in the business year preceding that of the decision to impose the fine, or

(ii) an amount corresponding to EUR 24 000 000.

3a. Member States may establish rules for cases where it is not possible to determine the amount of the fine on the basis of the total worldwide turnover of the legal person in the business year preceding that in which the offence was committed, or in the business year preceding the decision to impose the fine.

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Article 15 – Non-prosecution or non-application of penalties to the victim

Article 15

Non-prosecution or non-application of penalties to the victim

Member States shall, in accordance with the basic principles of their legal systems take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on child victims of sexual abuse and sexual exploitation for their involvement in criminal activities, which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in [Article 4(2), (3), (5), ~~and~~ (6)**, and (7)** and in Article 5 (4), (5) and (6)].

Article 16 – Investigation and prosecution

Article 16

Investigation and prosecution ~~and limitation periods~~

1. Member States shall take the necessary measures to ensure that investigations into or the prosecution of the offences referred to in **Articles 3 to 9** are not dependent on a report or accusation being made by the victim or by his or her representative, and that criminal proceedings may continue even if that person has withdrawn his or her statements.

~~2.~~

3. Member States shall take the necessary measures to ensure that effective and proportionate investigative tools are available to persons, units or services responsible for investigating or prosecuting offences referred to in **Articles 3 to** ~~6 and~~ **9**. Where appropriate, those tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases.

4. Member States shall ensure that persons, units or services investigating and prosecuting the offences referred to in Articles 3 to 9 have sufficient staff, and expertise ~~and effective investigative tools~~ to effectively investigate and prosecute such crimes, including those committed through the use of information and communication technology, in accordance with the applicable rules of Union and national law. ~~Where appropriate, these tools shall include special investigative tools, such as those which are used in countering organised crime or other serious crime cases, like the possibility to conduct undercover investigations.~~

5. Member States shall take the necessary measures to enable investigative units or services to attempt to identify the victims of the offences referred to in **Articles 3 to 9**, in particular by analysing child sexual abuse material, such as photographs and audiovisual recordings transmitted or made available by means of information and communication technology.

PUBLIC

Recital 32:

(32) ~~Effective investigatory tools should be made available to those responsible for the~~ **To ensure the effective and proportionate** investigation and prosecutions of the offences referred to in this Directive. **Member States should make available to competent authorities effective investigative tools such as those available under their national law for combatting organised crime or other serious crime cases, if and to the extent that the use of those tools is appropriate and proportionate to the nature and gravity of the criminal offences as provided for in national law**. ~~Those~~ **Such** tools could include **the** interception of communications, covert surveillance**,** including electronic surveillance, **the** monitoring of bank accounts ~~or~~ **and** other financial ~~investigations~~ **investigation tools.** ~~taking into account, inter alia, the principle of proportionality and the nature and seriousness of the offences under investigation. Where appropriate, and in.~~ **Those tools should be used in line** with ~~applicable ruless, access to retained subscriber, access and location data, taking into account, *inter alia*,~~ the principle of proportionality and ~~the nature and seriousness of the offences under investigation~~ **in full respect of the Charter. It is imperative that the right to the protection of personal data be respected**. In accordance with national law, such tools **should** ~~also could~~ include the possibility for law enforcement authorities to ~~use a concealed identity on the Internet~~ **conduct undercover online investigations.** ~~using concealed identities, incluiding engaging with suspects and participating in online environments and distributing child sexual abuse material, [for the purpose of gathering evidence], subject to prior judicial authorization. These investigative techniques are essential to ensure the effective investigation and prosecution of offences involving sexual abuse and sexual exploitation of children.~~ **As those crimes are, in most cases, facilitated or enabled by online tools and are therefore intrinsically cross-border,** ~~. T~~**to ensure effective investigation and prosecution, Member States' competent authorities should also cooperate where appropiate through and with Europol and Eurojust, within their respective competences and in accordance with the applicable legal framework.** ~~These competent authorities should also share information among each other and with the Commission on issues encountered in investigations and prosecutions. Where appropriate, these tools should include special investigative tools, such as those which are used in countering organised crime or other serious crime cases, like the possibility to conduct undercover investigations. To ensure effective investigation and prosecution, Member States should consider providing frameworks for close cooperation between financial services and other relevant service providers such as providers of live streaming services. This would reduce impunity and ensure that all of the offences covered by this Directive can be investigated effectively, using targeted and appropriate tools and resources.~~

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Article 19 – Jurisdiction

The cross-reference to article 8 under article 19(4) is still pending.

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Article 19

Jurisdiction

1. Member States shall take the necessary measures to establish their jurisdiction over the offences referred to in [Articles 3 to 9] where:

   (a) the offence is committed in whole or in part within their territory; or

   (b) the offender is one of their nationals.

2. A Member State shall inform the Commission where it decides to establish further jurisdiction over an offence referred to in Articles 3 to 9 committed outside its territory, *inter alia*, where:

   (a) the offence is committed against one of its nationals or a person who is an habitual resident in its territory;

   (b) the offence is committed for the benefit of a legal person established in its territory; or

   (c) the offender is an habitual resident in its territory.

3. Member States shall ensure that their jurisdiction includes situations where an offence referred to in [Articles 5, 6 and 8], and in so far as is relevant, in [Articles 3, 4, 7 and 9], is committed by means of information and communication technology accessed from their territory, whether or not it is based on their territory.

4. For the prosecution of any of the offences referred to in Article 3(4), (5), ~~(6), (7), and (8)~~ (6), (4a), (6a), Article 4(2), (3), (5), (6) and (7), Article 5(6)~~,~~ **and** Article 7 ~~[and Article 8]~~ committed outside the territory of the Member State concerned, as regards paragraph 1–, point– (b) of this Article, each Member State shall take the necessary measures to ensure that its jurisdiction is not subordinated to the condition that the acts are a criminal offence at the place where they were performed.

5. For the prosecution of any of the offences referred to in [Articles 3 to 9] committed outside the territory of the Member State concerned, as regards paragraph 1–, point– (b) of this Article, each Member State shall take the necessary measures to ensure that its jurisdiction is not subordinated to the condition that the prosecution can only be initiated following a report made by the victim in the place where the offence was committed, or a denunciation from the State of the place where the offence was committed.

~~6.~~

Article 24 – Competent authorities or equivalent entities

Article 24

Competent authorities or equivalent entities

Member States shall ensure that competent authorities or equivalent entities exist and are enabled to carry out the following activities:

(a) facilitating and, where needed, coordinating efforts at national or regional level on prevention and assistance to victims;

(b) carrying out of assessments of trends in child sexual abuse, online and offline;

(c) evaluating the results of preventive programmes and measures, as well as of programmes and measures intended to assist and support victims, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field;

(d) reporting on such trends, results and statistics.

In particular, the competent authorities shall be responsible for the data collection, research and reporting obligations referred to in Article 31.

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Article 25 - Multi-agency and multi-stakeholder coordination and cooperation

Following the exchanges with the delegations, the Presidency has insisted to the Parliament to include one additional change in the operative part ("within their respective competence"), referring to legal consistency arguments. The Parliament has accepted the change. This article is now agreed at technical level.

PUBLIC

Article 25

Multi-agency and multi-stakeholder coordination and cooperation

Member States shall put in place appropriate mechanisms to ensure effective coordination and cooperation to develop and implement measures to ~~tackle~~ **combat** child sexual abuse and exploitation, both online and offline, at the national level, of relevant authorities, agencies and bodies, including local and regional authorities, law enforcement agencies, the judiciary, public prosecutors, support service providers as well as providers of information society services, non-governmental organisations, **including those operating hotlines and helplines**, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities. These mechanisms shall also ensure effective coordination and cooperation with ~~the [EU Centre] and~~ the Commission and **where appropriate and where applicable, with Union agencies and bodies with competences specifically to address issues related to child sexual abuse, within their respective competences.**

Proposed recital:

The mechanisms established by Member States to ensure effective coordination and cooperation between all the relevant actors at national level as provided by the Directive, should also ensure where appropriate **and where applicable**, effective coordination and cooperation with ~~other~~ Union agencies and bodies, such as Eurojust and Europol, **and with any other Union agency or body if and once established specifically to address issues related to child sexual abuse within their respective competences.**

Article 25a – International Cooperation

~~*Article 25a*~~

~~*International Cooperation*~~

~~*Without prejudice to the rules on crossborder cooperation and mutual legal assistance in criminal matters, Member States' competent authorities, Europol, Eurojust and the EU Centre shall, within their respective competences and in the limits of their respective remit, cooperate with competent authorities of third countries in the fight against the criminal offences referred to in Articles 3 to 8b.*~~

Recital:

Taking into account ~~Without prejudice to~~ the rules on cross- border cooperation and mutual legal assistance in criminal matters, Member States are encouraged, where appropriate and within their respective competences, cooperate with competent authorities of third countries in the fight against the criminal offences referred to in this Directive. Such cooperation should also involve, where appropriate, Union agencies and bodies such as Europol and Eurojust, **within their respective competences**.

Article 26 – Measures against advertising abuse opportunities to commit child sexual abuse and sexual exploitation

Article 26

Measures against advertising abuse opportunities ***to commit*** ~~*and the*~~ ***child*** *sexual abuse and sexual exploitation* ~~*of children in travel and tourism*~~

Member States shall take appropriate measures to prevent or prohibit the dissemination of material advertising the opportunity to commit any of the offences referred to in Articles 3, 4, 5, 6, 6a, 7, 8 and 8a~~; and~~

~~(b) the organisation for others, whether or not for commercial purposes, of travel arrangements with the purpose of committing any of the offences referred to in Articles 3 , 4 and 5.~~

Article 27 – Preventive intervention programmes or measures

Article 27

Preventive intervention programmes or measures

1. Member States shall take the necessary measures to ensure that persons who fear that they might commit any of the offences referred to in Articles 3 to 9 have access to effective and targeted intervention programmes or measures designed to evaluate and prevent the risk of such offences being committed.

   Without prejudice to procedural rules of national health~~care~~ **and social** systems, Member States shall ~~ensure~~ **allow** that these programmes or measures are ~~provided~~ **implemented** ~~on an~~ anonymous**ly** ~~basis~~, when anonymity is necessary to ensure their effectiveness.

2. Member States shall ensure that family members of persons who fear that they might commit any of the offences referred to in Articles 3 to 9 can participate**, where appropriate,** in such programmes or measures as referred to in para 1, for the purpose of seeking advice and guidance on how to support those persons in preventing them committing any of those offences.

Accompanying recital:

Anonymity is an essential requirement for the effectiveness of some preventive intervention programmes or measures, such as helplines or on-line chats, given that the identity disclosure could discourage persons fearing that they might commit an offence from participating in those programmes or measures. Therefore, where appropriate and necessary for the effectiveness of preventive programmes or measures, Member States should ensure that such programmes or measures are provided on an anonymous basis. However, where, under national law, access to such programmes or measures falls within the national health~~care~~ **and social** system**s** and the applicable rules do not permit anonymity, Member States should not be required to ensure anonymous access.

Article 28 – Prevention

Article 28

Prevention

1. To discourage and reduce the demand that fosters all forms of sexual exploitation of children, Member States shall take appropriate measures, such as education and training, information and awareness raising campaigns ~~on~~ **regarding** the lifelong consequences of child sexual abuse and exploitation, its illegal nature, and the possibility ~~for~~ **that** persons who fear that they might commit related offences to have access to dedicated and effective intervention programmes or measures **as provided in Article 27** ~~to discourage and reduce the demand that fosters all forms of sexual exploitation of children.~~

   ~~Member States shall develop a communication strategy, national action plans, and promote dialogue and cooperation with civil society organisations, hotlines, helplines, public authorities and relevant informations society services.~~

   The measures referred to in paragraph 1 shall also aim to increase knowledge of the fact that non-consensual sex is a criminal offence and to promote the understanding that consent must be given voluntarily as a result of a person's free will, mutual respect, and the right to sexual integrity and bodily autonomy. Such measures shall be adapted to the evolving capacity of the persons to whom they are addressed.

2. Member States shall take appropriate action, including through the Internet, such as information and awareness-raising campaigns, research, ~~and~~ education and training programmes, or **material, including on** digital literacy, on ~~age-appropriate sexuality~~ **comprehensive sexuality education** ~~focusing~~ **and on** ~~the notion of consent,~~ **safe** ~~online and offline practices, as well as on the proper~~ **use of the internet and new technologies**, where appropriate in cooperation with relevant civil society organisations, **hotline, helplines** and other stakeholders, aimed at raising awareness and reducing the risk of children, becoming victims of sexual abuse or sexual exploitation. **To further minimise that risk, Member States shall ensure that children have access to these hotlines and helplines in order to get relevant information and advice of the offences provided under this Directive.**

3. **Without prejudice to the judicial independence and differences in the organisation of the judiciary across the Union,** Member States shall **take appropriate measures to** ~~ensure~~ **promote** regular **and specialist**~~ed~~ training, including in child friendly justice ~~is promoted or offered to~~ for professionals, **prosecutors**, judges~~, without prejudice to the judicial indepedence~~ **and** ~~for~~ officials likely to come into contact with child victims of sexual abuse or sexual exploitation, ~~including, but not limited to, child protection professionals, legal professionals, teachers, staff in child care, healthcare professionals, and, educators, volunteers and coaches, family court judges and front-line police officers~~, aimed at enabling them to ~~detect early signs of abuse or potential abuse or sexual exploitation,~~ identify and deal with child victims and potential child victims of sexual abuse or sexual exploitation.

4. Member States shall take appropriate measures to ~~ensure~~ **enhance** the prevention of child sexual abuse in community settings, including schools, hospitals, social care services, **foster care**, sports clubs or religious communities ~~by equipping children and adults, including parents and educators, with adequate skills for detecting potential malicious behaviour.~~

   Those measures **may** ~~shall~~ include:

   (a) dedicated training and awareness raising activities for ~~staff, consultants and volunteers~~ **personnel** working in **close contact with children, including on how to prevent, identify and provide an age-appropriate, gender-sensitive and trauma-informed response to child sexual abuse and exploitation** ~~such settings~~;

   (b) ~~mandatory~~ **child safeguarding policies,** dedicated guidelines, internal protocols and standards identifying good practices, such as the establishment of mechanisms of supervision and accountability for staff working in close contact with children in such settings;

   (c) the creation of safe ~~and accessible~~ spaces, run by dedicated and appropriately trained personnel, where children, parents, carers and members of the community can report inappropriate behaviour.

   ~~(ca) the creation of helplines, online chats or other readily available channels run by appropriately trained personnel, where children can obtain information and advice regarding the offences referred to in Articles [3 to 8b].~~

PUBLIC

Prevention measures shall devote particular attention to the need to protect children who are particularly vulnerable, including children with ~~mental, intellectual, sensory or physical~~ disabilities.

~~[5. For the purpose of this Directive, the EU Centre, once established, Member States shall be proactively supported by the EU Centre, once established Member States' prevention efforts by:~~

~~(a) inviting other Union institutions, bodies, offices and agencies, as well as relevant authorities, bodies or agencies of the Member States, to share information about prevention measures and programmes in the field of child sexual abuse and sexual exploitation whenever appropriate and at least once a year;~~

~~(b) collecting information on prevention measures and programmes in the field of child sexual abuse and exploitation, including measures and programmes implemented in third countries;~~

~~(c) facilitating the generation and exchange of knowledge, guidelines for front-line professionals, best practices and expertise among Member States, Union institutions, bodies, offices, and agencies, and third countries by keeping a public database of prevention measures and programmes implemented in each Member State as well as in third countries;~~

~~(ca) supporting the development of national awareness-raising and prevention campaigns, educational and intervention programmes, tools and materials as well as guidelines for professionals working in close contact with children.]~~

~~5a. Member States shall ensure that the actions listed in paragraph 5 are evidence-based and that those actions take into account the evolving manifestations of the offences listed in the Directive, including online.~~

PUBLIC

Recital 43

(43) Member States should establish or strengthen policies to prevent sexual abuse and sexual exploitation of children, including measures to discourage and reduce the demand that fosters all forms of sexual exploitation of children, and measures to reduce the risk of children becoming victims, by means of, information and awareness-raising campaigns, including for parents ~~and~~, **volunteers**, carers**, teachers, educators, child protection professionals, social and foster care professionals, trainers coaches, legal professionals,** ~~family court judges~~**, front-line police officers, healthcare professionals, religious community leaders** and society at large. **For the same reasons, Member States should strengthen** ~~and~~ research **on the topic as well as** ~~and~~ education programmes~~, including sexual education~~. In such initiatives, Member States should adopt a child-rights based approach. Care should be taken to ensure that awareness-raising campaigns aimed at children are appropriate and sufficiently easy to understand, and tailored to the specific needs of children of different age groups, including pre-school children **as well as children who are particularly vulnerable, including children with** ~~mental, intellectual, sensory or physical~~ **disabilities children in contexts of migration,** ~~both unaccompanied or accompanied,~~ **or children who do not conform to conventional norms** ~~relating to sexual orientation, gender identity and expression or sex characteristics~~**.** Prevention measures should take a holistic approach to the phenomenon of child sexual abuse and sexual exploitation, by addressing its online and offline dimensions and mobilizing all relevant stakeholders. In particular for the online dimension, measures should include the development of digital literacy skills, including critical engagement with the digital world, to help users identify and address attempts of online child sexual abuse, seek support and prevent its perpetration. Particular attention should be paid to prevention of child sexual abuse and sexual exploitation of children that are cared for in a group facility rather than in the context of family-based care. ~~Where not already in place, the establishment of dedicated help-lines or hotlines should be considered. Children should be able to obtain information and advice regarding the offences referred to in Articles [3 to 8ab] through those channels. Children who fear that they might become victims of sexual abuse or sexual exploitation should have access to hotlines and helplines in order to get relevant information and advice of the offences provided under this Directive.~~

Article 29 – Intervention programmes or measures on a voluntary basis in the course of or after criminal proceedings

PUBLIC

Article 29

Intervention programmes or measures on a voluntary basis in the course of or after criminal proceedings

1. Without prejudice to intervention programmes or measures imposed by the competent judicial authorities under national law, Member States shall take the necessary measures to ensure that ~~dedicated~~ **targeted** and effective intervention programmes or measures are made available to prevent and minimise the risks of repeated offences of a sexual nature against children. Such programmes or measures shall be accessible at any time during the criminal proceedings, and shall be available both inside and outside prison, in accordance with national law.

2. The intervention programmes or measures, referred to in paragraph 1 shall meet the specific developmental needs of children who sexually offend.

3. Member States shall take the necessary measures to ensure that the following persons may have access to the intervention programmes or measures referred to in paragraph 1:

   (a) persons subject to criminal proceedings for any of the offences referred to in Articles 3 to 9, under conditions which are neither detrimental nor contrary to the rights of the defence or to the requirements of a fair and impartial trial, and, in particular, in compliance with the principle of the presumption of innocence; and

   (b) persons convicted of any of the offences referred to in Articles 3 to 9.

4. Member States shall take the necessary measures to ensure that the persons referred to in paragraph 3 are subject to an assessment of the danger that they present and the possible risks of repetition of any of the offences referred to in Articles 3 to 9, with the aim of identifying appropriate intervention programmes or measures.

5. Member States shall take the necessary measures to ensure that the persons referred to in paragraph 3 to whom intervention programmes or measures in accordance with

(a) are fully informed of the reasons for the proposal;

(b) ~~consent~~ **agree** to their participation in the programmes or measures with full knowledge of the facts;

(c) may refuse and, in the case of convicted persons, are made aware of the possible consequences of such a refusal.

PUBLIC

Recital 47

(47) ~~In order to prevent the sexual abuse and sexual exploitation of children, intervention programmes or measures targeting sex offenders should be proposed to them.~~ **Intervention programmes or measures, specifically aimed at preventing the commission or repetition of the offences referred to in this Directive and targeted to the needs of persons subject to criminal proceedings** ~~or persons suspected of or~~ **or convicted for committing any of the offences covered by the Directive should be available in Member States.** ~~Those intervention programmes or measures should meet a broad, flexible approach focusing on the medical and psycho-social aspects and have a non-obligatory character.~~ Those intervention programmes or measures are without prejudice to intervention programmes or measures imposed by the competent judicial authorities. **Member States are not obliged to create new intervention programmes or measures provided that effective and targeted ones are already available in the context of the fight against child sexual abuse and that they adequately address the risks associated with such offences. Those intervention programmes or measures should meet a broad, flexible approach focusing on the medical and psycho-social aspects and have a non-obligatory character. Member States are encouraged to ensure that the programmes and measures are accessible without undue restrictions in line with national standards.**

Article 30 – Measures against websites containing or disseminating child sexual abuse material

Article 30

Measures against online interfaces containing or disseminating child sexual abuse material

1. Member States shall take the necessary measures to ensure the prompt removal of ~~web~~ specific items of child sexual abuse material– hosted in their territory and to endeavour to obtain the removal of such items hosted outside of their territory.

2. Member States may take measures to **promptly** block access to specific items of child sexual abuse material towards the Internet users within their territory. These measures must be set by transparent procedures and provide adequate safeguards, in particular to ensure that the restriction is limited to what is necessary and proportionate, and that users are informed of the reason for the restriction. Those safeguards shall also include the possibility of judicial redress.

Article 32 – Reporting

Article 32

Reporting

The Commission shall, by [5 years after the date of entry into application] and then every 5 years thereafter, submit a report to the European Parliament and the Council on the application of this Directive in the Member States and, if appropriate, propose amendments.

PUBLIC

Article 32a - Freedom of the press and freedom of expression in other media

Article 32a

Freedom of the press and freedom of expression in other media

This Directive shall not affect special liability regimes relating to fundamental principles on the freedom of the press and the freedom of expression in the media which exist in Member States as of [the date of entry into force of this Directive], provided that such regimes can be applied in full compliance with the Charter.

Article 33 - Transposition

Article 33

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with **[**Article 2, paragraphs **(3) (a),(c) and (d)**, (4), (5), **(7)**, (8), Article 3 paragraphs (1), (4), to **(6a)**; Article 4 paragraphs (4) to (7); Article 5 paragraphs (2) to (10); Articles **5a** to 10; Article 11, introductory wording and letters (b), (h), (i); Article 12; Article 13; Article 14 paragraph (1), introductory wording and letter (b), and paragraphs (2) and (3); Article 15 to 20; Article 21 paragraphs (1) to (4), and (6) to (10); Article 22 paragraph (3), introductory wording and letter (g), and paragraphs (4), (5); Articles 23 to 28; Article 29 paragraphs (1), (3) and (4); Articles 30 to 32] of this Directive **by three years** after entry into force] They shall immediately communicate the text of those measures to the Commission.

2. When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication.

3. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive**.**

Article 34 – Repeal

Article 34

Repeal

Directive 2011/93/EU is repealed with effect from [the day after the second date referred to in [Article 33], without prejudice to the obligations of the Member States relating to the time limit for the transposition into national law of the Directive set out in Annex I.

Article 36 – Addressees

Article 36

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

PUBLIC

B. SECTION B – Penalty levels and Limitation Periods

Article 3 – Offences concerning child sexual abuse

The Presidency has taken note of the concerns of delegations on the issue of consent, but given that there are still diverging views between delegations, the Presidency has decided to keep the operative text untouched, as it constitutes a delicate balance, and propose some adjustments in the recitals. In addition, the Presidency proposes to increase the level of penalty in article 3(6)(7), with the understanding that the rest of the penalty levels as proposed in this package, including the reduction of penalty level in Article 3(4a) and Article 8a will be accepted by the Parliament.

PUBLIC

Article 3

*Offences concerning **child** sexual abuse*

1. Member States shall take the necessary measures to ensure that the **intentional** conduct referred to in [paragraphs 2 to **7** ~~8~~] is punishable.

2. Causing, for sexual purposes, a child who has not reached the age of sexual consent to witness sexual activities, even without having to participate, shall be punishable by a maximum term of imprisonment of at least [1] year.

3. Causing, for sexual purposes, a child who has not reached the age of sexual consent to witness sexual abuse, even without having to participate, shall be punishable by a maximum term of imprisonment of at least [2] years.

3a. Where the child has reached the age of sexual consent, the conduct referred to in the ~~first subparagraph~~ paragraph 3 shall be punishable by a maximum term of imprisonment of at least [2] years, where:

(a) abuse is made of a recognised position of trust, authority or influence over the child; or

(b) abuse is made of a particularly vulnerable situation of the child, in particular because of a disability or a situation of dependence; or

(c) use is made of coercion, force or threats.

4. Engaging in sexual activities, **other than those set out in paragraph 6,** with a child who has not reached the age of sexual consent or causing a child **who has not reached the age of sexual consent** to engage in sexual activities with ~~another~~ **a third person or with themselves** shall be punishable by a maximum term of imprisonment of at least [5] years.

4a. Engaging in sexual activities, other than those set out in paragraph 7, with a child who has reached the age of sexual consent and does not consent to the act, or causing a child who has reached the age of sexual consent and does not consent to engage in ~~non-consensual~~ **sexual activities with** ~~another~~ **a third person or with themselves, shall be punishable by a maximum term of imprisonment of at least [3** ~~5~~ **years.**

5. Engaging in sexual activities with a child, **or causing a child to engage in sexual activities with** ~~another~~ **a third person or with themselves, [as provided for in paragraph 4 and 4a],** where:

(a) abuse is made of a recognised position of trust, authority or influence over the child, shall be punishable by a maximum term of imprisonment of at least [10] years if the child has not reached the age of sexual consent, and of at least [5] years of imprisonment, if the child is over that age; or

(b) abuse is made of a particularly vulnerable situation of the child, in particular because of a ~~mental or physical~~ disability or a situation of dependence, shall be punishable by a maximum term of imprisonment of at least [10] years if the child has not reached the age of sexual consent, and of at least [5] years of imprisonment if the child is over that age; or

(c) use is made of coercion, force or threats shall be punishable by a maximum term of imprisonment of at least [10] years if the child has not reached the age of sexual consent, and of at least [5] years of imprisonment if the child is over that age.

~~6. Coercing, forcing or threatening a child into sexual activities with a third party shall be punishable by a maximum term of imprisonment of at least […] years if the child has not reached the age of sexual consent, and of at least […] years of imprisonment if the child is over that age~~.

6. The following intentional conduct shall be punishable by a maximum term of imprisonment of at least [**12** ~~10~~] years:

(a) engaging with a child ~~below~~ **who has not reached** the age of sexual consent in ~~any act of~~ **sexual activities entailing** vaginal, **or** anal ~~or oral~~ **penetration** ~~of a sexual nature,~~ **with any bodily part or object, or oral penetration with a genital bodily part**;

(b) causing a child ~~below~~ **who has not reached** the age of sexual consent to engage with ~~another~~ **a third** person **or with themselves** in ~~any act of~~ **sexual activities entailing** vaginal, **or** anal ~~or oral~~ **penetration** ~~of a sexual nature,~~ **with any bodily part or object, or oral penetration with a genital bodily part**.

7. ~~Where the child is above the age of sexual consent and does not consent to the act, the conduct referred to in paragraph 7 shall be punishable by a maximum term of imprisonment of at least […] years~~.

The following intentional conduct shall be punishable by a maximum term of imprisonment of at least [10 ~~8~~] years:

(a) engaging with a child who has reached the age of sexual consent and does not consent to sexual activities in sexual activities entailing vaginal, or anal penetration, with any bodily part or object; or oral penetration with a genital bodily part;

(b) causing a child who has reached the age of sexual consent and does not consent to sexual activities, to engage with a third person or with themselves in sexual activities entailing vaginal or anal penetration with any bodily part or object, or oral penetration with a genital body part.

~~**6b**~~

PUBLIC

8. For the purpose of paragraphs **3a**, 4a, 5 and 7, Member States shall ensure that:

(a) a non-consensual act with a child who has reached the age of sexual consent is understood as an act which is performed without the child's consent given voluntarily, as a result of the child's free will assessed in the context of the surrounding circumstances, or where the child is unable to form a free will, due to the presence of circumstances referred to in paragraph 5, or due to other circumstances, such as sleep, surprise and state of unconsciousness;

(b) the consent can be withdrawn at any moment before or during the act;

(c) consent cannot be inferred exclusively by the child's silence, verbal or physical non-resistance or by any past or present relations with the offender.

Accompanying recitals:

(15c) Engaging in sexual activities with children who have reached the age of sexual consent should be punishable if the child does not consent. The child's consent must be given voluntarily by the child, as a result of the child's freely formed will considered in the context of the ~~relevant~~ surrounding circumstances.

In cases in which the child is unable to form a free will, consent cannot be deemed to exist. Such situations could be considered when abuse is made of a recognised position of trust, authority or influence over the child. Persons upholding such a trust or authority could for example work in schools or as supervisors of the child in a work-related or sporting context or be close family **members** such as parents, stepparents and grandparents **or foster care**. It also includes situations where abuse is made of a particularly vulnerable situation of the child, for example where the child ~~has a disability~~ **is in a situation of dependence or has a mental, intellectual, sensory or physical disability and the perpetrator takes advantage of a limited ability of the child to safeguard its sexual integrity, resulting from that disability**. This also applies to situations where use is made of coercion, force or threats. Other relevant surrounding circumstances that ~~should~~ **could** be taken into account include situations where the child is sleeping, unconscious, in a state of frozen fright or intoxicated**,** in a manner impacting its ability to form a free will as well as situations where the child is taken by surprise, or caught off guard, or the act is committed unexpectedly so that the child has no opportunity to make a decision on participation in the sexual act.

(15d) Voluntary participation must be present at the time the sexual act is performed. Consent to participate can be withdrawn at any moment before or during the act. The fact that a person has indicated in advance that he or she wants to participate in a sexual act does not mean that a later sexual act should **in any case** be considered voluntary. Voluntary participation must be present throughout the sexual act.

(15e) Consent cannot be inferred solely from the child's silence, verbal or physical non-resistance or past sexual conduct or by any past or present relations with the offender. A ~~person~~ **child** who voluntarily participates in a sexual act expresses their willingness to participate in some way, e.g. words or deeds. The lack of such expression can be understood as meaning that the participation is not voluntary. Therefore, a child who, for example, is sleeping or unconscious cannot be considered to consent.

(15f) Recitals 15c, 15d, 15e and Article 3(~~9~~ **8**) do not seek to limit the circumstances in which it can be considered that a child does not consent to a sexual act.

(15g) This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in respect of the sexual exploitation of children. It provides for certain forms of conduct to be criminalised where the issue of consent is immaterial. The Directive does not preclude further offences being provided for in national law, which are predicated on an absence of consent, and which may be prosecuted in respect of child victims.

Article 4 – Offences concerning sexual exploitation

Article 4

Offences concerning sexual exploitation

1. Member States shall take the necessary measures to ensure that the intentional conduct referred to in paragraphs 2 to 7 is punishable.

2. Causing or recruiting a child to participate in child sexual abuse performances, or profiting from or otherwise exploiting a child for such purposes shall be punishable by a maximum term of imprisonment of at least [5] years if the child has not reached the age of sexual consent and of at least [2] years of imprisonment if the child is over that age.

3. Coercing or forcing a child to participate in child sexual abuse performances, or threatening a child for such purposes shall be punishable by a maximum term of imprisonment of at least [8] years if the child has not reached the age of sexual consent, and of at least [5] years of imprisonment if the child is over that age.

4. Knowingly attending child sexual abuse performances involving the participation of a child shall be punishable by a maximum term of imprisonment of at least [3] years if the child has not reached the age of sexual consent, and of at least [1] year of imprisonment if the child is over that age.

5. Causing or recruiting a child to participate in exploitation in prostitution, or profiting from or otherwise exploiting a child for such purposes shall be punishable by a maximum term of imprisonment of at least [8] years if the child has not reached the age of sexual consent, and of at least [5] years of imprisonment if the child is over that age.

6. Coercing or forcing a child into exploitation in prostitution, or threatening a child for such purposes shall be punishable by a maximum term of imprisonment of at least [10] years if the child has not reached the age of sexual consent, and of at least [5] years of imprisonment if the child is over that age.

7. Engaging in sexual activities with a child, where recourse is made to exploitation in prostitution shall be punishable by a maximum term of imprisonment of at least [6] years if the child has not reached the age of sexual consent, and of at least [3] years of imprisonment if the child is over that age.

~~**7a**~~

Article 5 – Offences concerning child sexual abuse material

Article 5

Offences concerning child sexual abuse material

1. Member States shall take the necessary measures to ensure that the intentional conduct, when committed without right, referred to in paragraphs 2 to 6 is punishable.

PUBLIC

2. Acquisition or possession of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [2] years.

3. Knowingly obtaining access, by means of information and communication technology, to child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [2] years.

4. Distribution, dissemination or transmission of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [3] years.

5. Offering, supplying or making available child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [3] years.

6. Production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [3] years.

7. For the purposes of paragraph 1, the conducts referred to in paragraphs 2, 3 and 4 shall not be considered to be committed without right in particular where carried out by, or on behalf and under the responsibility of, an organisation, **such as a hotline**, established in a Member State acting in the public interest against child sexual abuse**,** ~~for example when it~~ **including organisations that have** been authorised by competent authorities of that Member State, and when such actions were carried out in accordance with the conditions set out in such authorisation.

~~Member States are encouraged to ensure that the organisations acting in the public interest against a child sexual abuse referred to in the first subparagraph have the necessary expertise and functional independence, that there are appropriate reporting and oversight mechanisms to ensure that the organisations act expeditiously, diligently, and in the public interest, and that the organisations they make use of secure channels of communication to carry out the actions covered by the authorisation.~~

8. Member States ~~shall ensure that~~ **shall strive to provide a legal framework for issuing** authorisations for ~~an~~ organisation**s** acting in the public interest against child sexual abuse referred to in paragraph 7**, and shall ensure that, when issued, the authorisations** allow **at least** ~~some or~~ all of the following activities ~~to~~:

PUBLIC

a. ~~receive and analyse~~ **reception and analysis of** reports of suspected child sexual abuse material, submitted to them by victims, online users or other organisations acting in the public interest against child sexual abuse;

b. prompt~~ly notify~~ **notification to** the relevant law enforcement authority of the Member State where the material is hosted of reported illegal content;

c. ~~collaborate~~ **collaboration** with organisations acting in the public interest against child sexual abuse and authorized to receive reports of suspected child sexual abuse material in accordance with point (a) in the Member State or third country where the material is hosted;

~~d. carry out searches on publicly accessible material on hosting services to detect the dissemination of child sexual abuse material, using the reports of suspected child sexual abuse material referred to in letter (a) or on a request of a victim.~~

~~da.~~

Member States shall strive to ensure that organisations acting in the public interest against child sexual abuse referred to in the paragraph 7 have the necessary expertise and functional independence, that there are appropriate reporting and oversight mechanisms to ensure that the organisations act expeditiously, diligently, and in the public interest, and that ~~the organisations~~ they make use of secure channels of communication to carry out the actions covered by the authorisation.

8a. Member States ~~are encouraged~~ shall strive to allow organisations acting in the public interest against child sexual abuse referred to in paragraph 7 to carry out searches on publicly accessible material on hosting services to detect the dissemination of child sexual abuse material, using the reports of suspected child sexual abuse material referred to in letter (a) or on a request of a victim.

9. It shall be within the discretion of Member States to decide whether this Article applies to cases involving child sexual abuse material as referred to in Article 2, point (3)(c) where the person appearing to be a child was in fact 18 years of age or older at the time of depiction.

~~9a.~~

PUBLIC

Article 5a

Offences concerning instructions on how to commit offences related to child sexual abuse, sexual exploitation, child sexual abuse material, or solicitation of children for sexual purposes

1. Member States shall take the necessary measures to ensure that the intentional conduct when committed without right, referred to in paragraphs 2 to 5 is punishable.

2. Knowingly obtaining access, acquiring or possessing instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [1] year.

3. Distributing, disseminating or transmitting instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [2] years.

4. Offering, supplying or making available instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [2] years.

5. Producing instructions on how to commit child sexual abuse as defined in article 2(10) shall be punishable by a maximum term of imprisonment of at least [2] year.

Article 5b

Offences concerning artificial intelligence systems ***designed or adapted specifically*** *to ~~which~~ enable the production of child sexual abuse material*

Member States shall take the necessary measures to ensure that the following intentional conduct, when committed without right, is punishable:

~~(a) Acquisition or possession of artificial intelligence systems designed or adapted primarily specifically for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least […] year.~~

(b) Distributing, disseminating or transmitting artificial intelligence systems designed or adapted ~~primarily~~ **specifically** for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [**2**] year.

(c) Offering, supplying or making available artificial intelligence systems designed or adapted ~~primarily~~ **specifically** for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [**2**] year.

(d) **Designing or adapting** ~~Creation or adaptation~~ of artificial intelligence systems ~~designed or adapted primarily~~ **specifically** for the purpose of enabling the production of child sexual abuse material shall be punishable by a maximum term of imprisonment of at least [2] years.

Accompanying recital:

The designing and adaptation of artificial intelligence systems specifically to the purpose of enabling the production of child sexual abuse material as well as their distribution, dissemination and transmission, offering, supplying or making available, constitute a grave threat to the safety and fundamental rights of children protected under Article 24 of the EU Charter of Fundamental Rights.

AI systems designed and adapted specifically to the purpose of enabling the production of such material pose a grave risk to human dignity and the rights of the child, including their right to private life, and risk normalising, amplifying and perpetuating sexual violence against children.

The risks addressed by the criminalisation of the above-mentioned conducts do not arise from the mere existence or ordinary use of artificial intelligence systems, but from their intentional design or technical adaptation to enable the generation of child sexual abuse material. Therefore, this Directive does not seek to criminalise general-purpose or open artificial intelligence technologies that have not been specifically designed or adapted for such purposes.

PUBLIC

This approach is complementary, but distinct from the framework established under Regulation (EU) 2024/1689 [as amended] and it is without prejudice to the obligations that that Regulation sets out to lay down effective, proportionate and dissuasive penalties applicable to infringements by operators. To the extent that a breach of the provisions criminalising the designing and adaptation of artificial intelligence systems specifically to the purpose of enabling the production of child sexual abuse and the related offences under this Directive also infringe the prohibitions in Article xx xx of Regulation EU) 2024/1689 [as amended] that result in the imposition of penalties of a criminal nature pursuant to Article 99(1) of Regulation (EU) 2024/1689, Member States are required to ensure respect for the *ne bis in idem* principle in accordance with the Charter of Fundamental Rights.

In the context of the criminal offences relating to AI systems designed or adapted specifically for the purpose of enabling the production of child sexual abuse material covered by this Directive, the term "when committed without right" allows Member States to provide a defence relating to such AI systems when they serve a legitimate purpose, such as activities carried out under domestic legal power, to prevent, detect or investigate a crime or for scientific or research purposes.

Article 6 – Solicitation of children for sexual purposes

Given that article 6 remains still one of the difficult points of the negotiations and the Parliament insists on covering children above the age of sexual consent in para 1, the Presidency is addressing the question below to delegations in an effort to find a middle ground.

Question to delegations: Delegations are invited to indicate if in the spirit of compromise, they can accept a targeted extension to cover the case where the offender falsely represented themselves as a peer only for children above the age of sexual consent. An additional wording was included in an effort to align the wording with Article 6a, upon the request of the Parliament.

Article 6

Solicitation of children for sexual purposes

1. Member States shall take the necessary measures to ensure that the following intentional conduct committed by an adult is punishable as follows:

   a. proposing , by means of information and communication technology, to meet a child **who has not reached the age of sexual consent** either online or in person, for the purpose of committing any of the offences referred to in Article 3(4), (5), (6) and (7) and Article 5(6), where that proposal was followed by material acts leading to such a meeting, shall be punishable by a maximum term of imprisonment of at least [**1** year];

   b. The conduct referred to in the first subparagraph shall be punishable by a maximum term of imprisonment of at least [**2** years] where use is made of coercion, force or threats

2. Member States shall take the necessary measures to ensure that **the conduct, committed by an adult, of soliciting a child, who has not reached the age of sexual consent,** ~~an attempt~~, by means of information and communication technology, to ~~commit the offences provided for in Article 5(2) and (3) by an adult soliciting a~~ **produce or share** child sexual abuse material depicting that child **or a child having a close personal relationship with that child** is punishable **by a maximum term of imprisonment of at least 6 months. Such conduct shall be punishable by a maximum term of imprisonment of at least 1 year where use is made of coercion, force or threats.**

   Where the child has reached the age of sexual consent, the conduct referred to in the first subparagraph shall be punishable by a maximum term of imprisonment of at least 6 months where use is made of coercion or threats, or where the offender falsely represented themselves as a peer.

~~3. The conduct referred to in the first subparagraph shall be punishable by a maximum term of imprisonment of at least 1 year where use is made of coercion, force or threats.~~

Article 6a

Sexual extortion

Member States shall take the necessary measures to ensure that intentionally threatening a child with the disclosure of child sexual abuse material depicting that child or a child having a close personal relationship with that child to one or more persons in order to obtain money, further child sexual abuse material, or any other form of remuneration or consideration in exchange, shall be punishable by a maximum term of imprisonment of at least [4 ~~3~~] years if the threatened child has not reached the age of sexual consent, and of at least [2] years of imprisonment, if the threatened child is over that age.

Article 7

*Solicitation **of livestreaming** of **child** sexual abuse **or sexual exploitation***

Member States shall take the necessary measures to ensure that intentionally promising or giving any person money, or other form of remuneration or consideration, ~~to cause them to commit~~ **for the purpose of accessing, or making accessible to** ~~another~~ **a third person, a livestream of the activities described in** any of the offences listed in Article 3(4), **(4a)**, (5), (6), **and** (7)**, [**Article 4(2) and (3) and Article 5(6)**]** is punishable by a maximum term of imprisonment of at least [2] years.

Article 8

Operation of an online service for the purpose of child sexual abuse or sexual exploitation

Member States shall take the necessary measures to ensure that intentionally operating or administering an information society service which is ~~conceived~~ **designed or adapted** to facilitate or **promote** ~~or encourage~~ the commission of any of the offences referred to in Articles 3 to 7 is punishable by a maximum term of imprisonment of at least [2] years.

Article 8a

Organisation of travel arrangements with the purpose of committing child sexual abuse and sexual exploitation

Member States shall take the necessary measures to ensure that intentionally organising ~~for others~~ travel arrangements for **another person for** the purpose of **enabling that other person to commit** ~~committing~~ any of the offences referred to in Articles 3 **and** 4~~, and 5~~, **abroad**, irrespective whether or not it was in the course of a commercial activity, is punishable by a maximum term of imprisonment of at least [~~2~~ **1**] year.

Article 16a - Limitation Periods

Article 16a remains the most difficult issue in this negotiation, and requires further work. The Presidency took note of the positions expressed by the Member States at the meeting on 11 May 2026. In the compromise package that was shared with the Parliament, the Presidency included the version of article 16a that was presented in the ST 8678/26. but with para 3 included, in accordance with our mandate.

The Parliament strongly insists that the absolute minimum they can accept is the Commission proposal and considers that this would be a big concession on their side, given their initial mandate. They also consider that any solution with para 3 included would not be considered as a meaningful compromise. The Presidency has on the other hand explained that the Commission proposal is too ambitious, given that a large number of offences are included in the threshold of 25 and 30 years limitation period and will not be accepted by the Council.

The Presidency has tried to test different versions of article 16a with the Parliament, including efforts to keep the derogation in para 3 but in a slightly re-phrased manner, but they have all been rejected. Therefore, the Presidency considers that the following compromise proposal could be a final landing zone, that will have chances to lead to an agreement to the political trilogue.

This proposal is based on the following elements:

- Par.1 of the Council mandate is kept which is more restricted in scope than the Commission proposal.

PUBLIC

– Par.2 is categorised with list of offences, rather than penalty levels. The division of thresholds are kept as: a) 15 years for some offences, b) 20 years that covers most of the offences, whilst the high threshold of 32 years applies only for 2 offences (rape below and above and article 4(6) only for below). The proposed period of 32 years, according to the Parliament is justified given the strong existing evidence that the average age that a person reports such type of offences is the age of 50 years and will be the trade off for accepting such a limited scope in the higher threshold level of this article.

– In par.3 the derogation is replaced with a new paragraph which is copied from the recital.

Article 16a

Limitation periods

1. Member States shall take the necessary measures to enable the investigation, prosecution, trial and adjudication of the offences referred to in Article 3, Article 4(2), (3), (5), (6) and (7), of any serious offences referred to in Article 5(6) when child sexual abuse material as referred to in Article 2, points (3)(a) and (b) has been used, for a sufficient period of time after the victim has reached the age of majority and which is commensurate with the gravity of the offence concerned.

2. The period referred to in paragraph 1 shall be:

(a) at least 15 years from the date the victim has reached the age of majority for the offences punishable under Articles 3(4a), 4(7) for children above the age sexual consent and 5(6) of this Directive.

(b) at least 20 years from the date the victim has reached the age of majority for the offences punishable under Articles 3(4), 3(5), 4(2) for children below the age of sexual consent, 4(3), 4(5), 4(6) for children above the age of sexual consent, 4(7) for children below the age of sexual consent, of this Directive

(c) at least 32 years from the date the victim has reached the age of majority for the offences punishable under article 3 paragraph 6 and 7 and under article 4 paragraph 6 for children below the age of sexual consent, of this Directive.

3. As long as the result of par.1 and 2 is achieved, Member States are free to determine the specific modalities governing limitation periods, including their starting point, length, applicable rules on suspension or interruption, in accordance with their national legal system.

(31) Victims of sexual abuse and sexual exploitation of children are often unable to report the crime for years and even decades after its commission due to the shame, guilt and self-blame, which can be related, among others, to the social and cultural stigma that still surround sexual abuse, the secrecy in which the abuse takes place, threatening or blaming conduct by the perpetrator, and/or trauma. Perpetrators of sexual abuse and sexual exploitation of children, unlike perpetrators of other violent crimes, tend to remain active until old age, continuing to pose a threat to children. In light of this, effective investigation and prosecution of offences involving sexual abuse and sexual exploitation of children, as well as appropriate victims' assistance and support, can only be provided if statutes of limitations allow victims to report the crime for a significantly extended period of time. Member States should take the necessary measures to ensure that statutes of limitation**s** for initiating proceedings do not expire until the victim reaches the age of majority plus an adequate number of years in accordance with this Directive, without prejudice to national rules that do not set limitation periods for investigation, prosecution and enforcement. As long as this result is achieved, Member States are free to determine the specific modalities governing limitation periods, including their starting point, and length of their statutes of limitations, applicable rules on suspension or interruption, in accordance with their national legal system. For example, the time for which the limitation period is suspended or does not start following the commission of the crime until the victim reaches a certain age according to national law can be considered.

PUBLIC

SECTION C –Article 31 and Victims rights provisions

Article 31 – Data collection and research

The Presidency has discussed in-depth article 31 with the Parliament. Following the input received from delegations regarding letter c and d under paragraph 2, and informal exchanges with the Parliament, delegations will find below the amendments proposed to these two letters.

Additionally, the Presidency has presented again the Council's position regarding paras 4 and 5. The Parliament is now ready to drop para 4 and 5, but replace them with an article as the one that exists under article 23 from EnviCrime Directive.

PUBLIC

Article 31

Data collection and research

1. Member States shall ensure that a system is in place for the recording, production and provision of anonymised statistical data on the reporting, investigative and judicial stages in relation to the criminal offences referred to in Articles 3 to 9 in order to monitor the effectiveness of their measures to combat sexual abuse and sexual exploitation of children.

2. The statistics shall**, as a minimum,** include the following **existing data, available at central level, where possible**~~data~~ disaggregated by sex, age **or age group** of the victim and of the offender, **the type of the offence and, where possible and relevant** relationship between the victim and the offender ~~and type of offence~~

   (a) the **annual** number of reported offences ~~and of convictions of offences~~ referred to in Articles 3 to 9, **including the number of victims involved in those offences**, **obtained from national administrative sources** ~~or~~;

   (b) the annual number of persons prosecuted for and convicted of the offences referred to in Articles 3 to 9, obtained from national administrative sources;

   (c) the number of ~~offenders~~ **persons subject to criminal proceedings or persons convicted for offences referred in articles 3 to 9 having accessed prevention programmes under Article 29;**

(d) the number of ~~potential offenders~~ persons having accessed prevention programmes under Article~~s~~ 27 ~~and 28~~;

(e) the number of calls to hotlines or helplines provided by article 21 and article 28.

3. Member States shall **endeavour to** conduct **population-based surveys at regular intervals to** assess the prevalence of, and trends **in**, all forms of abuse covered by this Directive. Member States shall transmit **statistical data resulting from** those **surveys** to the Commission (Eurostat) **as soon as they become available**.

~~4. In order to ensure the comparability and standardisation of administrative data across the Union, Member States shall endeavour to collect administrative data on the basis of common disaggregations developed in accordance with appropriate standards referred to in paragraph 5.~~

~~5. European Union agencies and bodies with competences relevant to the offences covered in this Directive, support Member States in the data-gathering referred to in paragraph 2, including by establishing common standards taking into account the requirement set in paragraph 4.~~

6. Member States shall transmit the ~~statistics to the EU Centre and~~**available statistical data to** the Commission and make the collected ~~statistics~~**statistical data** available to the public on an annual basis **in the standard format referred to in Article 31a.** The ~~EU Centre shall compile the statistics and make them publicly available. The statistics~~**statistical data** shall not contain personal data.

7. Member States shall ~~support~~**foster** research on root causes, effects, incidences, effective prevention measures, effective assistance to victims measures and conviction rates of the offences referred to in Articles 3 to 9 of this Directive.

PUBLIC

Article 31a

Implementing powers

1. **By [date], the Commission shall establish, by means of implementing acts, a standard, easily accessible and comparable format for the transmission of statistical data referred to in Article 31(2). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31a(2).**

Victims rights provisions

For these provisions, the Parliament is still insisting on several points, like Article 18(3), compensation, Barnahus and survivors. While it is likely that the Parliament will at the end accept the deletion of the first two elements (article 18(3) and compensation), further work is required on Barnahus model and the recital on 'survivors'.

For the Parliament explained that their intention to include the reference to survivors was that they wish to ensure that adults who have suffered harm in their childhood and decide to report their case after the expiration of the statute of limitations, they will still retain access to support services. The Presidency explained to the Parliament that this request cannot be justified with the legal basis of the Directive..The Parliament then withdrew their proposal to include recital 37 as was proposed in the previous documentand will submit another proposal in the coming days.

For Barnahus since the second sentence that was added by the Presidency was rejected by a lot of Member States, further work is required on these two issues (Barnahus and survivors). The Presidency upon the feedback that will receive from the Parliament, will table alternative compromise proposals to delegations in the coming days.

Article 17

The Parliament welcomed the solution found in para 3 and could in general support it, except the phrase 'serious and imminent danger' as it will not cover cases that there are clear signs of past abuse, and they wish to change it to 'serious or imminent danger'. We have explained that this text constitues a delicate balance and is difficult to re-open it. In order to find a middle ground they reqested to cover the issue of signs of past abuse only in the context of guidelines in para 5.

Article 17

Reporting suspicion of child sexual abuse or sexual exploitation

1. Member States shall take the necessary measures to ensure that the confidentiality rules**, as well as the rules on professional secrecy,** imposed by national law on certain professionals ~~whose main duty is to work~~ **working in close contact** with children do not constitute an obstacle to the possibility, for those professionals, ~~of their reporting~~ **to report** to the ~~services responsible for child protection~~ **competent authorities** any situation where they have reasonable grounds for believing that a child is ~~the~~ **a** victim **or could become a victim** of offences referred to in Articles 3 to ~~9~~ **6a and 9**.

2. Member States shall take the necessary measures **to encourage** ~~and facilitate~~ any person who knows about or suspects, in good faith, that any of the offences referred to in Articles 3 to 9 have been committed, to report this to the competent ~~services~~ **authorities** in accordance with national procedural rules, without ~~affecting~~ **prejudice to** Article 18 of Regulation (EU) 2022/2065 of the European Parliament and of the Council[1].

3. Member States shall ensure that professionals working in close contact with children in the child protection, education, childcare and health care sectors have the obligation to report to the competent authorities at least when they have substantial grounds to believe that the wellbeing of the child is in serious and imminent danger because an offence punishable under this Directive has been committed or is likely to be committed.

~~4~~

~~4a~~

5.

[1] Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2065/oj).

Member States, ~~supported by the EU Centre once established~~, **shall ensure that guidelines, binding or** ~~and~~ **non-binding in nature depending on national law, are issued for the persons referred to in paragraph 3 on identifying whether substantial grounds exist that show that the wellbeing of the child is in serious and imminent danger and on reporting to competent authorities, including guidance in relation to cases, other than the ones in paragraph 3, and in particular where there are substantial grounds to suspect that the child might have been subject to child sexual abuse and sexual exploitation in the past. This obligation shall not apply to Member States whose national legislation provides for wider professional's reporting obligations.**

New Recital 34a

The best interests of the child as provided by Article 3 of the UN Convention on the rights of the child and Article 24, section 2, of the European Charter of Fundamental Rights must be the guiding principle for professionals working in close contact with children in the child protection, education, childcare and health care sectors when reporting suspicion that an offence punishable under this Directive has been committed or is likely to be committed to the competent authorities. Article 17 para. 3 therefore provides for an obligation to report at least in cases where the professionals in question have substantial grounds to believe that the wellbeing of the child is in serious and imminent danger. ~~Moreover, experiences in the field show that there can be circumstances where the best interest of the child may be best served by at least postponing reporting to law enforcement agencies. Therefore, a child-centered approach could also take into consideration if the child doesn't does not consent to getting law enforcement agencies involved and/or if criminal proceedings would constitute an imminent threat to the physical or psychological well-being of the child that cannot be avoided otherwise. It is therefore the responsibility of~~ Each Member State **shall**~~l~~ determine the competent authorities to which such suspicion **shall** be reported. Those competent authorities are in particular not limited to law enforcement agencies but can also include for example youth welfare offices.

Article 18

Reporting of child sexual abuse or sexual exploitation

~~1.~~

~~**1a**~~.

~~2. Member States shall ensure that the reporting procedures referred to in paragraph 1 are safe, confidential and designed in a child-friendly manner and language, in accordance with their age and maturity.~~ Member States shall ensure ~~reporting~~ **that the ability of a child to report the act** is not conditional upon ~~parental~~ **the** consent ~~of that person~~ **of the holder of parental responsibility and that the measures necessary to protect the safety of the child are taken by the competent authorities before the holder of parental responsibility** ~~that person~~ **is informed about the reporting.**

~~**2a.**~~

2b. Member States shall ensure that professionals in contact with children during the reporting procedure are properly trained on the issue of sexual abuse and exploitation of children.

~~**3.** Member States shall ensure that the competent authorities coming in contact with victims reporting child sexual abuse offences or sexual exploitation offences are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, at least until completion of the first individual assessment of the victims' protection needs conducted in accordance with Article 22 of Directive 2012/29/EU.~~

PUBLIC

Article 20

Par.2a is aligned with the solution agreed in VAW, as requested by some delegations.

Article 20

General provisions on assistance, support and protection measures for child victims

1. Child victims of the offences referred to in Articles 3 to **6a** and 9 shall be provided assistance, support and protection in accordance with Articles 21 and 22, taking into account the best interests of the child~~, [irrespective of whether they have filed a formal complaint].~~

2. Member States shall take the necessary measures to ensure that a child is provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that a child might have been subject to any of the offences referred to in Articles 3 to **6a** and 9.

2a. ~~Member States shall ensure the provision of easily accessible, free of charge and comprehensive healthcare services for child victims of sexual abuse or exploitation, including sexual and reproductive healthcare.~~ **Member States shall provide for child victims of sexual abuse or exploitation, to have timely access to healthcare services, including sexual and reproductive healthcare services, in accordance with national law. These services shall be available free of charge, without prejudice to those services that are provided for under the national healthcare system, and accessible every day of the week.**

3. Member States shall ensure that, where the age of a person subject to any of the offences referred to in Articles 3 to **6a and** 9 is uncertain and there are reasons to believe that the person is a child, that person is presumed to be a child in order to receive immediate access to assistance, support and protection in accordance with Articles 21 and 22.

Article 21

Par.1a is replaced with the addition in par.4, which is aligned with VAW.

Article 21

*Assistance**,** ~~*and*~~ support**, and protection measures for** ~~*to*~~ victims*

1. **In addition to the measures laid down in Directive 2012/29/EU,** Member States shall take the necessary measures to ensure that assistance and specialised and appropriate support are provided to victims **of the offences referred to in Articles 3 to 6a and 9.** ~~before, during and for an appropriate period of time after the conclusion of criminal proceedings in order to enable them to exercise the rights set out in Directive 2012/29/EU, Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*] and in this Directive~~. ~~Member States shall notably ensure that victims of offences referred to in Articles 3 to 9 have access to targeted and integrated support services for children in accordance with Article 9a of Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*~~]. Member States shall, in particular, take the necessary steps to ensure protection for children who report cases of abuse within their family.

~~1a. Member States shall ensure protocols and services for age-appropriate clinical management of sexual violence, including assisting in the safekeeping and documentation of evidence, and shall provide access to age-appropriate medical and forensic examinations.~~

2. ~~Victims shall be provided with coordinated, age-appropriate medical care, emotional, psychosocial, psychological and educational support, as well as any other appropriate support tailored in particular to situations of sexual abuse.~~

[Member States shall consider ensuring that child victims of the offences referred to in Articles 3 to 6a and 9 are provided with the targeted and integrated support services referred to in Article 9a of Directive 2012/29/EU within the same premises.] ~~If those services are not provided in the same premises, Member States shall ensure that arrangements are made to improve accessibility of those services, support the overall well-bening of the child given their vulnerable situation and reduce trauma.~~

The Presidency indicated that the second sentence in this provision was not acceptable for the Council. An alternative proposal will be presented to delegations in the coming days.

Recital:

(36) Measures to protect child victims in a comprehensive manner should be adopted in their best interest, taking into account an assessment of their needs. Effective child protection requires a ~~whole of society~~ **comprehensive** approach. With the child at the centre, all relevant authorities and services should work together to protect and support the child, in their best interests**, as soon as they receive credible indication that a child has been subject of sexual abuse or exploitation. Filing of a formal complaint should not be a precondition for accessing support and protection measures.** The "Barnahus" model of providing a child-friendly environment staffed with specialists from all relevant disciplines is one of several advanced examples of a child-friendly approach to justice and to avoiding revictimisation. The relevant provisions of this Directive are built on the principles of that model. That model aims to ensure that all children involved in child abuse or child sexual exploitation investigations benefit from a high-quality assessment in child-friendly settings, appropriate psychosocial support and child protective services. This Directive attempts to ensure that all Member States uphold these principles, although it does not require the Member States to follow the Barnahus model as such.

Where the targeted and integrated support services are not provided within the same premises, the objective of ensuring child-friendly, age-appropriate and coordinated support could be achieved through appropriate organisational and procedural measures, to ensure that the coordinated multi-agency mechanism remains effective in practice. In this context, services could, where feasible, be organised in close geographical proximity, together with other measures that facilitate coordination, accessibility and continuity of support. Such measures may include the assistance by a single well-being officer throughout procedures in multiple locations, fast-tracked procedures, structured coordination between the relevant services, clear procedures for information-sharing and joint case management, reduced waiting times, and clear, consistent and age-appropriate communication with the child at each stage of the process.

PUBLIC

Where medical examinations of the child are necessary for the purposes of the criminal investigations, for example to gather evidence of abuse, these should be carried out by professionals trained for this purpose. This obligation should not prevent other medical examinations necessary for the well-being of the child. Child victims should have easy access to child friendly justice, legal remedies and measures to address conflicts of interest where sexual abuse or sexual exploitation of a child occurs within the family. When a special representative should be appointed for a child during a criminal investigation or proceeding, this role may be also carried out by a legal person, an institution or an authority. Moreover, child victims should be protected from penalties, for example under national legislation on prostitution, if they bring their case to the attention of competent authorities. Furthermore, participation in criminal proceedings by child victims should not cause additional trauma to the extent possible, as a result of interviews or visual contact with offenders.All authorities involved in the proceedings should, where appropriate and without prejudice to the judicial independence, be trained in child friendly justice. A good understanding of children and how they behave when faced with traumatic experiences will help to ensure a high quality of evidence-taking and also reduce the stress placed on children when carrying out the necessary measures.Where child victims participate in criminal proceedings, the court should take account of their age and maturity in conducting the proceedings and should ensure that the proceedings are accessible and understandable to the child.

2a. Member States shall ensure that helplines are available, free of charge, during adequate operating hours, to provide information on the type of support they can obtain and from whom according to articles 20, 21 and 22 of this Directive, and offer emotional support to victims of the offences referred to in Articles 3 to <u>6a</u> and 9.

Proposal for accompanying recital:

<u>The provision of helplines does not require Member States to establish a new helpline, but could be implemented in conjuntction with an existing helpline at national level.</u> ~~The operating hours of such helplines need to take into account the children needs and lifestyle.~~

PUBLIC

3. Where it is necessary to provide for interim accommodation, **Member States shall ensure that** children ~~shall~~, as ~~a priority,~~ **appropriate and in accordance with national law,** ~~be~~ **are** placed with ~~other~~ family members, where necessary in temporary or permanent housing, equipped with support services. **Member States shall take the necessary measures to ensure that the best interests of the child is a primary consideration when assessing matters related to interim accomodation of children.**

4. **Member States shall ensure that** victims of offences ~~punishable under this Directive~~ **referred to in Articles 3 to 6a and 9** ~~shall~~ have access to the referral centres established under **Article 26 of Directive (EU) 2024/1385**, **to ensure effective support to child victims of sexual abuse or sexual exploitaiton and to ensure the clinical management of rape, including assisting in the safekeeping and documentation of evidence.**

5. Member States shall take the necessary measures to ensure that assistance and support for a child victim are not made conditional on the child victim's willingness to cooperate in the criminal investigation, prosecution or trial.

6. **Member States shall ensure that child victims have, without delay, access to legal aid including legal counseling and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation.** ~~which~~ **Legal aid, including legal counselling and legal representation, shall be free of charge where the victim does not have sufficient means**.

7. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that, in criminal investigations relating to any of the offences referred to in Articles 3 to 6a and 9, medical examinations of the child victim for the purposes of the criminal proceedings are carried out by professionals trained for this purpose. ~~in accordance with national standards for the medical profession~~**.**

8. Member States shall ensure that child victims of the offences referred to in Articles 3 to 6a and 9, including ~~in particular~~ **children who have suffered harm** ~~because they have~~ **as a result of witnessinged a** ~~these~~ **crimes** ~~where appropiate,~~ **benefit from the support and protection measures laid down in Articles 20, 21, 23, and 24 of Directive 2012/29/EU.**

6. Member States shall take the necessary measures to ensure that the specific actions to assist and support child victims in enjoying their rights under this Directive, are undertaken following an individual assessment of the special circumstances of each particular child victim, conducted in accordance with Article 22 of Directive (EU) …/… [*proposed Directive amending* Directive 2012/29/EU *establishing minimum standards on the rights, support* and *protection of victims of crimes*] and taking due account of the child's views, needs and concerns.

7. Child victims of any of the offences referred to in Articles 3 to 9 shall be considered as particularly vulnerable victims pursuant to Article 22(2) of Directive 2012/29/EU and Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*].

8. Member States shall take measures, where appropriate and possible, to provide assistance and support to the family of the child victim in enjoying the rights under this Directive when the family is in the territory of the Member States. In particular, Member States shall, where appropriate and possible, apply Article 4 of Directive 2012/29/EU and Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*] to the family of the child victim.

[9. The EU Centre, once established, shall proactively support Member States' efforts on assistance to victims by:

(a) inviting other Union institutions, bodies, offices and agencies, as well as relevant authorities, bodies or agencies of the Member States, to share with the EU Centre information about assistance to victims of child sexual abuse and sexual exploitation whenever appropriate and at least once a year;

(b) collecting on its own initiative information on measures and programmes in the field of assistance to victims of child sexual abuse and sexual exploitation, including measures and programmes implemented in third countries;

~~(c) facilitating the exchange of best practices among Member States and between Member States and third countries, by keeping a public database of assistance to victims measures and programmes implemented in each Member States as well as in third countries; the database shall not contain any personal data.~~

~~(d) facilitating the preparation of the guidelines and protocols referred to in paragraph 10.]~~

10. Member States shall **ensure that** guidelines for healthcare, education and social service professionals on providing appropriate support to victims of child sexual abuse or exploitation **are issued**, including on referring victims to the relevant support services and clarifying roles and responsibilities ~~are issued~~. Such guidelines, **binding or non-binding in nature depending on national law**, shall also indicate how to address the specific needs of victims.

Previous article 22 has been deleted following discussion with the Parliament at the informal level.

~~*Article 22*~~

~~*Protection of children victims in criminal investigations and proceedings*~~

~~1. Member States shall take the necessary measures to ensure that in criminal investigations and proceedings, in accordance with the role of victims in the relevant justice system, competent authorities appoint a special representative for the child victim where, under national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the child victim, or where the child is unaccompanied or separated from the family.~~

~~2. Member States shall ensure that child victims have, without delay, access to legal counselling and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources.~~

3. Without prejudice to the rights of the defence, Member States shall take the necessary measures to ensure that in criminal investigations relating to any of the offences referred to in Articles 3 to 6 and 9:

(a) interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;

(b) interviews with the child victim or, where applicable, with a child witness, take place in premises designed or adapted for this purpose;

(c) interviews with the child victim or, where applicable, with a child witness, are carried out by or through professionals trained for this purpose;

(d) the same persons, if possible and where appropriate, conduct all interviews with the child victim or, where applicable, with a child witness;

(e) the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purpose of criminal investigations and proceedings;

(f) the child victim or, where applicable, with a child witness may be accompanied by his or her legal representative or, where appropriate, by an adult of his or her choice, unless a reasoned decision has been made to the contrary in respect of that person.

(g) medical examinations of the child victim for the purposes of the criminal proceedings are as limited as possible and are carried out by professionals trained for this purpose.

4. Member States shall take the necessary measures to ensure that in criminal investigations of any of the offences referred to in Articles 3 to 6 and 9 all interviews with the child victim or, where applicable appropiate, with a child witness, may be audio-visually recorded and that such audio-visually recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law.

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~~5. Member States shall take the necessary measures to ensure that in criminal court proceedings relating to any of the offences referred to in Articles 3 to 6 and 9, that it may be ordered that:~~

~~(a) the hearing take place without the presence of the public;~~

~~(b) the child victim or, where applicable, with a child witness, be heard in the courtroom without being present, in particular through the use of appropriate communication technologies.~~

~~6. Member States shall take the necessary measures, where in the interest of child victims or, where applicable, with a child witness and taking into account other overriding interests, to protect the privacy, identity and image of child victims and child witnesses and to prevent the public dissemination of any information that could lead to their identification.~~

~~7. Member States shall take the necessary measures to ensure that, where the participation of a child is necessary in criminal court proceedings relating to any of the offences referred to in Articles 3 to 6 and 9, the court takes into account the child's age and maturity in the relevant court proceedings including those related to the child's age, maturity and mental and physical wellbeing. Member States shall ensure this applies to all children, including those suspected, accused of, or convicted of a crime.~~

Article 23~~22~~

Victim's right to compensation

1. Member States shall ensure that victims ~~of offences referred to in Articles 3 to 9 of this Directive have a~~ **have the** right to **claim, in accordance with national law, full** compensation **from offenders for damages resulting from** ~~for any damage suffered. Member States shall ensure that compensation can be requested from perpetrators of~~ any of the offences referred to in 3

2. Member States shall ensure, where appropriate, that victims are able to obtain a decision on compensation in the course of criminal proceedings within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.

3. In addition to their rights under Article 16a of Directive (EU) …/… [*proposed Directive amending Directive 2012/29 establishing minimum standards on the rights, support and protection of victims of crimes*], victims. Victims shall be allowed to request claim compensation in the context of criminal and civil proceedings for any damage caused to them by any of the offences punishable under this Directive, for a sufficient period of time, commensurate with the gravity of the offence, after reaching the age of majority.

4. [Without prejudice to judicial independence, Member States shall ensure that, in order to ensure sufficient compensation to victims of offences punishable under this Directive, the following all relevant elements can be taken into account in accordance with the national law:

(a) any physical or mental pain and suffering caused by the offence, including the pain and suffering linked to the online circulation of child sexual abuse material concerning the victim in question;

(b) any cost of care in relation to the recovery from such pain and suffering, including expenses related to mental and physical health and treatment and travelling costs that might have been incurred to access such care; and

(c) any loss of income caused by the offence.]

(39a) Victims of offences covered by this Directive should be able to ~~obtain~~ claim full compensation from offenders for the damages suffered. These may include, for example ~~in particular~~, the specific and often long-lasting harm caused by the online circulation of child sexual abuse material depicting the victim, which may result in ongoing and repeated victimisation. Taking due account of such elements may contribute to ensuring that the right to compensation is effective in practice.

Article 23a

Resources

Without prejudice to the budgetary autonomy of the Member States, Member States shall ensure sufficient human and financial resources for the effective implementation of the measures set out in this Directive.

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